

Workers' Compensation Advisory Council (WCAC)  
Meeting Minutes  
Oct. 11, 2016  
Kneip Building, Conference Room #3  
700 Governors Drive, Pierre, SD

The meeting was called to order at 3:00 p.m. CDT, by Chairman Michels.

**Members Present:** Chairman Matt Michels, Marcia Hultman, Peter Bullene, Carol Hinderaker, Randy Stainbrook, Daniel Tribby (via Rapid City DDN site)

**Members Absent:** Guy Bender, Connie Halverson, Kory Rawstern

**Others Present:** Tom Hart, James Marsh, Julie McClelland, Mackenzie Decker, Jon Puetz, Lori Puetz, Bob Mercer, Larry Deiter, Sarah Harris, Dan Nelson, Shawn Lyons, Deb Mortenson, Dick Tieszen, Mike Shaw, Amber Mulder, Chris Specht, Mike McKnight, Jennifer Andrisen-Selzler, Brad Wilson, Dan Thielsen, Jim Leach

DDN sites were available at the following locations: Aberdeen, Rapid City and Sioux Falls.

Roll call was taken by Julie McClelland. A quorum was present.

**Approval of the Minutes of Dec. 10, 2015**

Motion: by Council member Hinderaker. Seconded: by Council member Stainbrook. Approved, and Motion carried.

Division Director James Marsh presented the 2016 Division Report on the State Workers' Compensation System. His report will be made available for viewing on the Department of Labor and Regulation website. A brief summary of the Wheeler case was given by Director Marsh. The constitutionality of the law surrounding Wheeler has been challenged by Rapid City attorney, Margo Julius. The Department does not plan to take an active role in the challenge process due to the fact it is connected to an active case pending with the Department.

Director Marsh also provided an update regarding the NCCI Medical Data Report. Once NCCI goes through the medical claims information, they will provide an updated report. He indicated the NCCI report will not be available until around Nov. 18. Chairman Michels asked that this report be made available on our website, and also emailed to Council members.

Director Marsh introduced Jon Puetz, who works for the South Dakota OSHA Consultation Office. Mr. Puetz is the recent recipient of the *William Higgins On-Site Consultation Program* award. The award is given to those who encourage and provide

consultation services on health and safety in the workplace. Puetz, along with Council member Bullene, presented a Power Point which provided an overview on outreach services of the SD OSHA Consultation office. South Dakota now has an OSHA office in Sioux Falls, SD, and Puetz provided contact information for the director.

Puetz also explained recent record keeping changes in regard to drug testing. A discussion was held.

Director Marsh provided a brief explanation of a memo that Rapid City attorney, Jim Leach, submitted for the Council's consideration. Mr. Leach proposes that the South Dakota Department of Revenue not issue a sales tax license to any employer that does not have proof of workers' compensation coverage in South Dakota. Director Marsh explained his review of the enforcement mechanisms of various other states. It was found most states do have some type of enforcement in place for uninsured employers. Discussion was held on Leach's memo. Shawn Lyons of the South Dakota Retailers Association and Brad Wilson of Insurance Benefits provided public testimony. At the conclusion of discussion, Chairman Michels pended the matter until next council meeting.

Sioux Falls attorney Mike McKnight presented information regarding Kids Chance of South Dakota. Kids Chance is a program designed to cover a work related death or injury by one or both parents. The program raised enough money last year to award scholarships to three South Dakota students who lost their parents in work related accidents. The National Kids Chance Organization National Awareness week runs from Nov. 14 – Nov. 18. McKnight would like the Council and Department of Labor and Regulation (DLR) to consider posting information about the program on the DLR website, or include it in DLR print materials.

No public input on proposed legislation was presented to the Council. The next WCAC meeting will tentatively be set for the first week in December.

Chairman Michels adjourned the Workers' Compensation Advisory Council meeting at 4:28 p.m. CDT.

A full length audio recording of the meeting, as well as meeting handouts, is available on the Department's website.